

EXHIBIT 1

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MISFIT

Word Mark MISFIT

Goods and Services IC 043. US 100 101. G & S: Coffee shops. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 88981221

Filing Date April 13, 2020

Current Basis 1A

Original Filing Basis 1A;1B

Published for Opposition June 15, 2021

Registration Number 6466477

Registration Date August 31, 2021

Owner (REGISTRANT) **Misfit Coffee Company LLC** LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405

Attorney of Record Todd R. Fronek

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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MISFIT

Word Mark	MISFIT
Goods and Services	IC 030. US 046. G & S: Coffee, coffee drinks, prepared coffee, coffee-based beverages, coffee beans, preparations for making coffee-based beverages, coffee-based iced beverages. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	88870013
Filing Date	April 13, 2020
Current Basis	1A
Original Filing Basis	1A;1B
Owner	(APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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MISFIT

Word Mark	MISFIT
Goods and Services	IC 032. US 045 046 048. G & S: Syrups for beverages, non-alcoholic cocktail mixes
	IC 033. US 047 049. G & S: Bitters, alcoholic cocktail mixes
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	88983655
Filing Date	April 13, 2020
Current Basis	1B
Original Filing Basis	1A;1B
Owner	(APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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MISFIT

Word Mark	MISFIT
Goods and Services	IC 043. US 100 101. G & S: Restaurant services; catering services; bar services; providing of food and drink via a mobile truck; mobile catering; mobile restaurant services; mobile café services for providing food and drink. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	97171474
Filing Date	December 14, 2021
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave. N Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Prior Registrations	6466477;6466478
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Word Mark	MISFIT
Goods and Services	IC 043. US 100 101. G & S: Coffee shops. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	88981222
Filing Date	April 13, 2020
Current Basis	1A
Original Filing Basis	1A;1B
Published for Opposition	June 15, 2021
Registration Number	6466478
Registration Date	August 31, 2021
Owner	(REGISTRANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the letters "MIS" located above the letters "FIT". The letters "FIT" are shown upside down and backwards.
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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MIS
FIT

Word Mark MISFIT

Goods and Services IC 030. US 046. G & S: Coffee, coffee drinks, prepared coffee, coffee-based beverages, coffee beans, preparations for making coffee-based beverages, coffee-based iced beverages. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 88870006

Filing Date April 13, 2020

Current Basis 1A

Original Filing Basis 1A;1B

Owner (APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405

Attorney of Record Todd R. Fronek

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the letters MIS located above the letters FIT. The letters FIT are shown upside down and backwards.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Word Mark	MISFIT
Goods and Services	IC 032. US 045 046 048. G & S: Syrups for beverages, non-alcoholic cocktail mixes IC 033. US 047 049. G & S: Bitters, alcoholic cocktail mixes
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	88983654
Filing Date	April 13, 2020
Current Basis	1A
Original Filing Basis	1A;1B
Owner	(APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the letters MIS located above the letters FIT. The letters FIT are shown upside down and backwards.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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MIS
FIT

Word Mark	MISFIT
Goods and Services	IC 043. US 100 101. G & S: Restaurant services; catering services; bar services; providing of food and drink via a mobile truck; mobile catering; mobile restaurant services; mobile cafe; 1/2 services for providing food and drink. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	97171402
Filing Date	December 14, 2021
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Misfit Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave. N Minneapolis MINNESOTA 55405
Attorney of Record	Todd R. Fronek
Prior Registrations	6466477;6466478
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the letters "MIS" located above the letters "FIT". The letters "FIT" are shown upside down and backwards.
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Tribune Publishing

Misfits Collective food hall coming to Apple Valley

**Jess Fleming, Pioneer Press, St. Paul, Minn.**

July 1, 2021 · 2 min read



Jul. 1—Tony Donatell, the king of cool suburban restaurants, is taking his operations to Apple Valley.

The Misfits Collective, opening in the former PR's Sports Bar on Florence Trail, is his biggest venture yet — a food hall of sorts with four concepts under one roof.

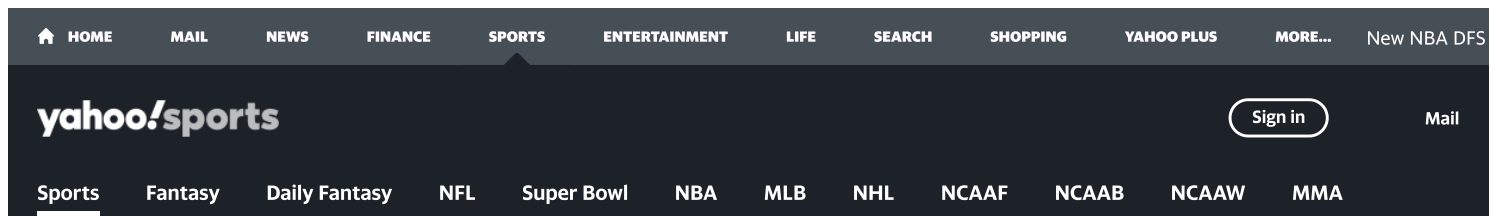
Donatell is the guy behind Burgers and Bottles, Volstead House, Mean Miner's Tacos and Farmer's Grandson in Eagan; Bourbon Butcher in Farmington; Whiskey Inferno in Savage; and Tequila Butcher in Chanhassen, most of which occupy formerly unremarkable spaces in strip malls, gas stations and previous Applebee's buildings.

This concept, he says, was born during the pandemic.

- ADVERTISEMENT -

TRENDING

1. Chiefs beat Bengals thanks to crucial penalty, will face Eagles in Super Bowl
2. Bobby Hull, Blackhawks legend and Hockey Hall of Famer, dies at 84



5. Manumets, Harts will be first black starting quarterbacks to face off in Super Bowl

"Basically, this entire brand was inspired by how our team came together during the shutdowns," Donatell said. "It's about the passions that they have ... sort of a playground to do exactly what they want to do."

The four spaces are as follows:

Curiouser Coffee: A counter-service coffee and coffee cocktail concept that is inspired by Alice in Wonderland. It's from beverage director Ralena Young, and you should expect coffee drinks that use house-made syrups, tinctures, bitters and "flavor profiles you wouldn't see in a normal coffee shop," said marketing director Emily Johnson. There are also breakfast and lunch options — from a breakfast burrito to oatmeal to sandwiches and desserts, including ice cream.

Ratio: A counter-service cocktail bar from Young featuring "perfectly balanced cocktails" and Detroit-style pizza. Also, house-made, wood-fired pizza rolls.

The Wanderer: A walk-up outdoor bar that will feature a rotating, globally inspired menu. Donatell said it's a way for every member of the team, many of whom come from different parts of the globe, to be able to showcase their culture and cuisine. The opening menu is from Mexico, and the bar program will feature cocktails that fit into that niche.

Eighth Fire: A full-service concept inspired by chef Dan Bennett in which plates meant for sharing are cooked over a live open flame. There's everything from pizza and vegetables cooked in embers to whole roasted chickens and lamb shanks and wood-fired desserts like a s'mores quesadilla and a rhubarb strawberry crisp.

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MLB

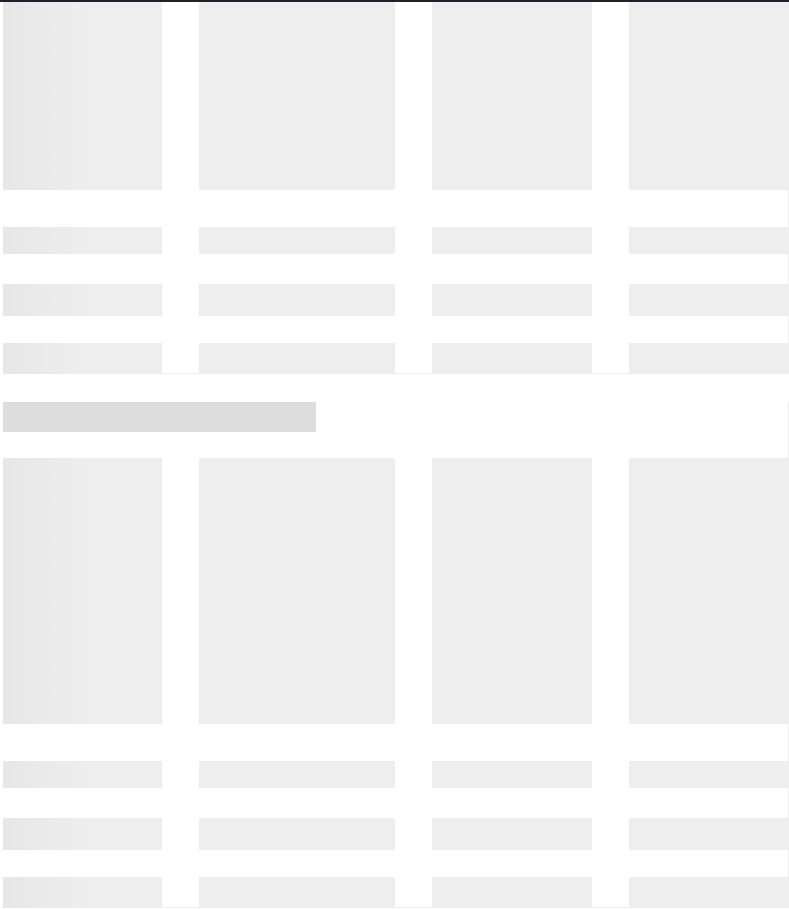
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NCAAW

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MMA



Multiple teammates conspired Bengals linebacker Joseph Ossai after he drew a late hit penalty that put the Chiefs in position for a field goal that delivered a Super Bowl berth f...

12h ago




NBC Sports BayArea

George Kittle's blunt two-word NSFW assessment of 49ers' NFC Championship loss

George Kittle offered a brutally honest assessment of the 49ers' NFC Championship Game loss to the Eagles.


15h ago



Ad • VantagePoint

A.I. Brain's Precise Predictions Stun Wall Street

Advanced A.I. "brain" consistently forecasts the stock market with up to 87.4% accuracy... 1-3 days in advance. Here's what it's seeing right now.




Cincinnati.com | The Enquirer

What's a jabroni? Travis Kelce's insult of Cincinnati Mayor Aftab Pureval was WWE 'smack'

"Hey, I've got some wise words for that Cincinnati mayor," Travis Kelce said after the Chiefs' win. "Know your role and shut your mouth, you jabroni!"

8h ago




The Telegraph

Rory McIlroy drains clutch putt to have last laugh over Patrick Reed

An eight-day week of golfing madness ended here at the Emirates Golf Club with Rory McIlroy lifting his third Dubai Desert Classic title in one of the most dramatic finales the...

2h ago




College Football News

Coaches Poll Top 25 Projection College Basketball Rankings Prediction Week 13

What will the latest Coaches college basketball poll be on January 31st? We make our best guess prediction before the real poll comes out on Monday morning

10m ago



Ad • MyDailyMagazine

Divers Find Old Camera, Then Regrets That It Works

Divers Find an Old Camera Lying On The Ocean Floor, Then They Saw The Pictures

Cincinnati.com | The Enquirer

The officiating in the AFC Championship had NFL fans calling the game rigged for the Chiefs

The officiating left a lot to be desired. This was how Twitter reacted.

https://sports.yahoo.com/misfits-collective-food-hall-coming-200500811.html 4/7

ProFootball Talk on NBC Sports



ProFootball Talk on NBC Sports

Jimmy Garoppolo: I wish I had a helmet on Sunday
After injuries to Brock Purdy and Josh Johnson, the 49ers were left without a functioning quarterback in Sunday's NFC Championship Game loss to the Eagles. Purdy had to return...

5h ago



Ad • YourDailySportFix

Forrest Gump Has Iconic Scene Flaw No One Noticed

No matter how many times you've seen the movie, this ridiculous flaw has gone unnoticed, and it changes everything...



Yahoo Sports

Joseph Ossai's hit on Patrick Mahomes goes down in Bengals infamy, but he didn't face scrutiny alone

Head coach Zac Taylor came and embraced him and let him cry into his shoulder. For Ossai, the support meant the world, but he also still thought he had let the Bengals' worl...

10h ago



Yahoo Sports

NFL official explains apparent extra down for Chiefs in AFC championship win over Bengals

The NFL is lucky the sequence didn't play a direct impact on the outcome of the game.

10h ago



NBC Sports BayArea

NFL rumors: Brock Purdy sustained right UCL injury, 49ers believe

The 49ers reportedly are hoping Brock Purdy didn't sustain a ruptured UCL in his right elbow.

15h ago



Ad • My Insurance Savings

Big Change Leaves Indiana Drivers Fuming

Don't pay your auto insurance bill until you read this.

The Telegraph

Patrick Reed rules controversy blows up around video of ball landing in wrong tree

Patrick Reed was involved in yet another rules controversy after the American declared that, despite TV suggesting otherwise, he was "100 per cent certain" it was his ball lodged up a tree in Dubai.

NBC Sports Boston



USA TODAY Sports
College basketball's weekend winners and losers headlined by Big 12 success and an Alabama flop
There were major men's college basketball games across the country this weekend. A look at the winners and losers from all the action.
5h ago



Ad • SportzBonanza
Deepest Hole in Earth Led To Remarkable Discovery
Scientists dug the deepest hole on Earth, but tens of thousands of feet down, they came across an unusual sight that made them turn around



AFP
Djokovic 'hurt' by father's absence from Australian Open final
Novak Djokovic said it "hurts him and me" after they decided that his father would not be courtside to see him win the Australian Open on Sunday, following a controversy over a...
1d ago



NBC Sports Boston
Jayson Tatum responds to LeBron James' complaint after no-call in Celtics-Lakers
LeBron James brought Jayson Tatum into the conversation with his latest lament about a missed call in Saturday's Celtics-Lakers game, but Boston's star forward took it in...
3h ago



Fort Worth Star-Telegram
Georgia quarterback Stetson Bennett, two-time national champ, arrested in Dallas
The Bulldogs quarterback, who beat TCU in the national championship game, was arrested Sunday morning.
1d ago



Ad • Sportinal
44 Messed Up Things In Batman No One Notices
40 wild facts about Adam West's Batman show.

Kansas City Star
Why NFL refs awarded Kansas City Chiefs extra third-down attempt vs. Cincinnati Bengals
There was a controversial play in the fourth quarter of Sunday's game, as the Chiefs got a second attempt at a third-down conversion. Here's what happened.

ProFootball Talk on NBC Sports



SNY

Packers organization 'prefers to move on' from potential Jets trade target Aaron Rodgers: report

The Green Bay Packers prefer to move on from Aaron Rodgers, a potential Jets trade target, according to a new report Sunday.

13h ago



Eagles defensive tackle Ndamukong Su...
3h ago

EXHIBIT 10

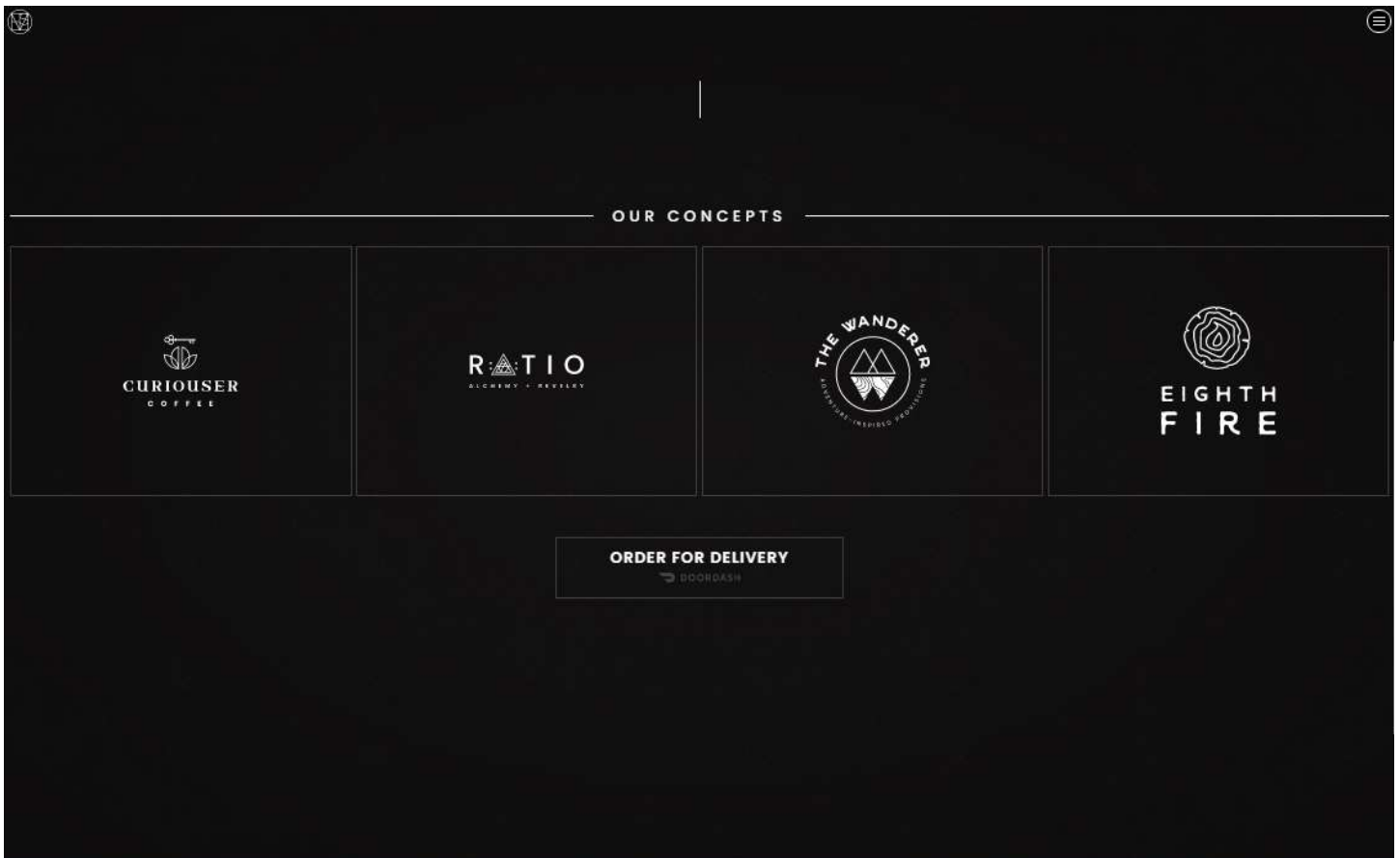


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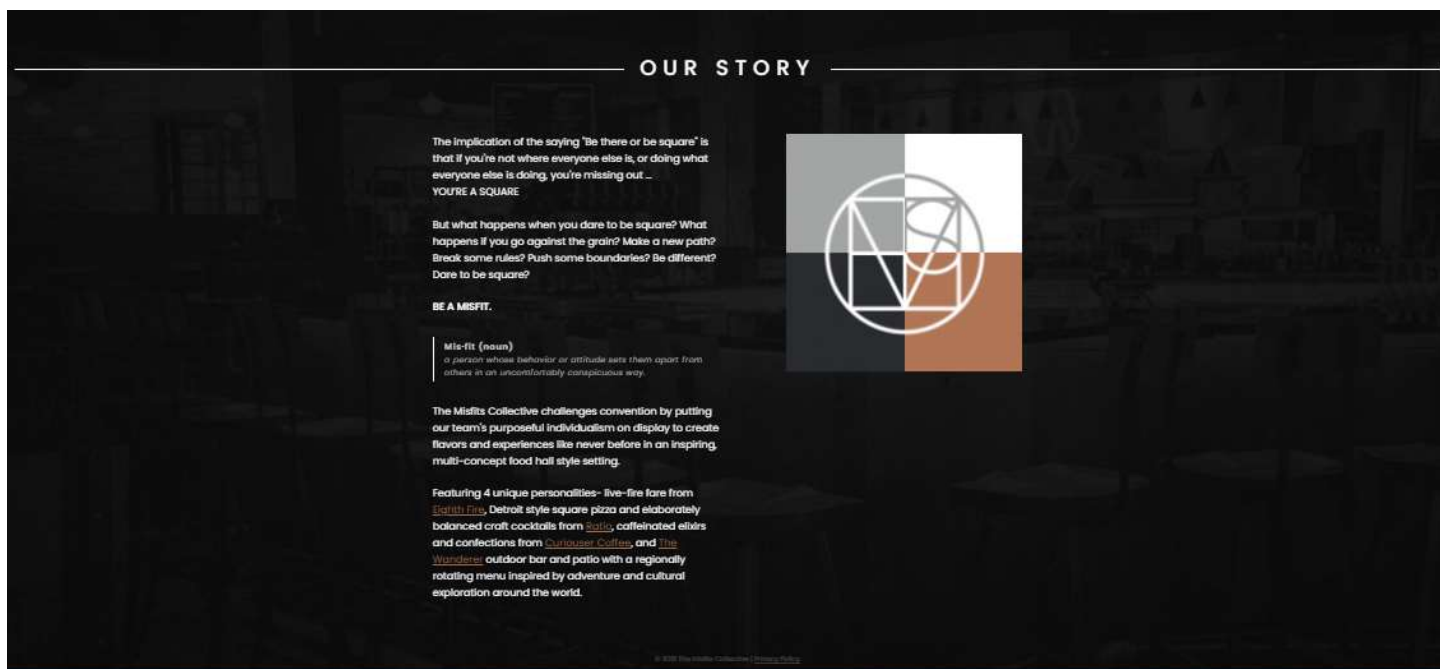


EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Misfit Coffee Company, LLC,

Civil Action No. _____

Plaintiff,

v.

COMPLAINT

Tony Donatell and Lone Oak Store LLC
d/b/a THE MISFITS COLLECTIVE

JURY TRIAL DEMANDED

Defendants.

Plaintiff Misfit Coffee Company, LLC (“Misfit Coffee” or “Plaintiff”), for its claims against Defendants Tony Donatell (“Donatell”) and Lone Oak Store LLC (“Lone Oak”) (collectively “Defendants”) d/b/a THE MISFITS COLLECTIVE, states and alleges as follows:

JURISDICTION AND VENUE

1. Misfit Coffee files this action against Defendants for trademark infringement, dilution, unfair competition, and deceptive trade practices. The claims alleged in this Complaint arise under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, Minnesota statutes, and common law. This Court has subject matter jurisdiction over Misfit Coffee’s claims for federal trademark infringement and unfair competition under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and over Misfit Coffee’s state and common law trademark infringement, dilution, and deceptive trade practices claims under 28 U.S.C. § 1367.

2. Defendants conduct business in this judicial district, have engaged in and continue to engage in infringing activity in this judicial district, and are subject to personal jurisdiction in

this judicial district.

3. Venue is proper in this judicial district under 28 U.S.C. § 1391.

THE PARTIES

4. Misfit Coffee is a Minnesota limited liability company having a principal place of business at 2401 Lyndale Ave. S., Minneapolis, Minnesota 55405.

5. Misfit Coffee is a purveyor of coffee, tea, beer, cocktails, and food items (including pastries and light lunch and dinner fare) through coffee shops, coffee and food trucks, food services, kiosk operations, and event catering. Since 2015 Misfit Coffee has sold its coffee, tea, beer, cocktails, and food items under the MISFIT mark.

6. Tony Donatell is a natural person believed to reside in or around Savage, Minnesota. Donatell is the operator and nameholder for THE MISFITS COLLECTIVE, and upon information and belief, is one of the owners of Lone Oak Store, LLC.

7. On information and belief, Lone Oak Store, LLC, whose headquarters is located at 1286 Lone Oak Road, Eagan, Minnesota 55121, is the owner of THE MISFITS COLLECTIVE, located at 14889 Florence Trail, Apple Valley, Minnesota 55124.

8. THE MISFITS COLLECTIVE provides restaurant services in Apple Valley, Minnesota through what it describes as a “multi-concept food hall style setting.” The specific restaurant services offered by THE MISFITS COLLECTIVE include, among other items, coffee, tea, beer, cocktails, and food items (including breakfast, lunch, and dinner fare).

FACTS

9. Since 2015, Misfit Coffee has been selling high quality specially roasted coffee beans, coffee and tea drinks, beer and cocktails, and food items through its coffee shops, coffee trucks, food services, kiosk operations, and event catering. Misfit Coffee has developed a

reputation for high quality coffee, tea, beer, cocktails, and food products within Minnesota and through the United States.

Misfit Coffee's Federal Trademarks:

10. Misfit Coffee has obtained United States trademark registrations for the word mark MISFIT, and for the stylized form of MISFIT.

11. A copy of Misfit Coffee's U.S. Trademark Registration No. 6,466,477 ("the '477 Registration"), registered August 31, 2021, for the word mark MISFIT for use with coffee shops is attached as Exhibit 1.

12. A copy of Misfit Coffee's U.S. Trademark Registration No. 6,466,478 ("the '478 Registration"), registered August 31, 2021, for the word mark, MISFIT in stylized form, with the letters "MIS" located above the letters "FIT" which are shown upside down and backwards, for use with coffee shops is attached as Exhibit 2.

Defendants' Infringing Activities:

13. In or around early July 2021, THE MISFITS COLLECTIVE opened for business in Apple Valley, Minnesota. Shortly before its opening it was the subject of an article titled "Misfits Collective food hall coming to Apple Valley," published in the Pioneer Press, which stated, among other things:

Tony Donatell, the king of cool suburban restaurants, is taking his operations to Apple Valley.

The Misfits Collective, opening in the former PR's Sports Bar on Florence Trail, is his biggest venture yet – a food hall of sorts with four concepts under one roof.

Donatell is the guy behind Burgers and Bottles, Volstead House, Mean Miner's Tacos and Farmer's Grandson in Eagan; Bourbon Butcher in Farmington; Whiskey Inferno in Savage; and Tequila Butcher in Chanhassen, most of which occupy formerly unremarkable spaces in strip malls, gas stations and previous Applebee's buildings.

* * * *

The four spaces are as follows:

Couriouser Coffee: A counter-service coffee and coffee cocktail concept that is inspired by Alice in Wonderland. It's from beverage director Ralena Young, and you should expect coffee drinks that use house-made syrups, tinctures, bitters and "flavor profiles you wouldn't see in a normal coffee shop," said marketing director Emily Johnson. There are also breakfast and lunch options – from a breakfast burrito to oatmeal to sandwiches and desserts, including ice cream....

A copy of the article titled "Misfits Collective food hall is coming to Apple Valley" is attached as Exhibit 3.

14. After its opening, Misfit Coffee became aware that THE MISFITS COLLECTIVE was selling coffee, tea, beer, cocktails, and food items through various beverage and food-serving "concepts" located within it, including Curiouser Coffee. Copies of THE MISFITS COLLECTIVE's website describing its beverage and food-serving "concepts" and its Curiouser Coffee coffee shop "concept" are attached as Exhibits 4 and 5, respectively.

15. The logo for THE MISFITS COLLECTIVE is displayed on its website, www.themisfitscollective.co. As displayed on its website, "THE MISFITS COLLECTIVE" is displayed in all capital letters featuring a backwards capital "F." See Exhibit 4.

16. THE MISFITS COLLECTIVE also displays "Misfits Collective," without including the article "the" on at least its building signage and menus.

17. Copied below is a comparison of Misfit Coffee's '478 Mark and THE MISFITS COLLECTIVE logos used on its website and signage:

The '478 Mark:



THE MISFITS COLLECTIVE’S use of “MISFIT”:



Like the ‘478 Mark, THE MISFITS COLLECTIVE logo is printed in all caps with the letter “F” displayed backwards.

18. As of August 16, 2021, publicly available records maintained by the Office of the Minnesota Secretary of State (“Minnesota Secretary of State”) listed Ms. Rheata Donatell as the nameholder for THE MISFITS COLLECTIVE. *See* Ex. 6.

19. By letter dated August 16, 2021 addressed to Ms. Rheata Donatell, counsel for Misfit Coffee gave the Defendant written notice of Misfit Coffee’s U.S. Trademark App. Ser. Nos. 88/870,006; 88/870,013; 88/981,221, and 88/981,222 for its MISFIT mark and logo. This

letter also noted that Misfit Coffee is already aware of incidents of actual confusion between its MISFIT mark and the Defendants' use of THE MISFITS COLLECTIVE. Misfit Coffee requested that Defendant cease use of the marks THE MISFITS COLLECTIVE, MISFIT, and any other confusingly similar marks in connection with food, coffee, or restaurant services, and that Defendant change and permanently stop using the URL www.themisfitscollective.co. *See* Ex. 7.

20. On August 26, 2021, counsel for Rheata Donatell sent a letter to Misfit Coffee's counsel stating that Rheata Donatell had been erroneously listed in the Minnesota Secretary of State's publicly-available records as the nameholder for THE MISFITS COLLECTIVE. That letter further stated that Donatell was the appropriate nameholder for THE MISFITS COLLECTIVE and that Donatell agreed to an assignment and amendment of THE MISFITS COLLECTIVE assumed name. *See* Ex. 8.

21. Publicly-available records maintained by the Minnesota Secretary of State now list Donatell as the nameholder for THE MISFITS COLLECTIVE. *See* Ex. 9.

22. After an exchange of emails and a telephone conversation with counsel for Donatell, Misfit Coffee's counsel sent Donatell's counsel an email, dated September 7, 2021, apprising him of the issuance of the '477 Mark and '478 Mark, and providing copies of the registrations for those Marks. Counsel for Misfit Coffee also stated that Misfit Coffee would provide the Defendant until September 10, 2021 to provide assurance that the Defendant would cease using the previously identified marks, *i.e.*, MISFIT and THE MISFITS COLLECTIVE, immediately. Absent such assurance, Misfit Coffee's counsel stated that Misfit Coffee would pursue further legal action. *See* Ex. 10.

23. Despite an additional exchange of written communications exchanged via email

after September 10, 2021, Defendants continue to use the ‘477 Mark and ‘478 Mark, in its name, THE MISFITS COLLECTIVE, its logo, and its URL, www.themisfitscollective.co, and have not committed to ceasing such use.

COUNT I
(Federal Trademark Infringement of U.S. Trademark Registration No. 6,466,477)
(Violation of 15 U.S.C. § 1114)

24. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 23 above.

25. The Defendants’ unauthorized use of the phrase, THE MISFITS COLLECTIVE, as its name has caused and is likely to cause confusion, to cause mistake, or to deceive consumers, and constitutes infringement of Misfit Coffee’s ‘477 Mark.

26. Upon information and belief, the Defendants deliberately and willfully infringed Misfit Coffee’s ‘477 Mark in an attempt to trade off the recognition and goodwill associated with that Mark.

27. The Defendants’ actions are likely to cause irreparable harm to Misfit Coffee unless enjoined.

28. The Defendants’ actions entitle Misfit Coffee to monetary relief under 15 U.S.C. §1117.

29. As a result of the Defendants’ trademark infringement, Misfit Coffee has suffered loss and damages in an amount to be determined at trial. Misfit Coffee is entitled to recover the Defendants’ profits attributed to their infringing activities. Misfit Coffee is entitled to attorneys’ fees and costs incurred in this action. Misfit Coffee is also entitled to permanent injunctive relief, enjoining the Defendants from further and continuing violations of 15 U.S.C. § 1114.

COUNT II
(Federal Trademark Infringement of U.S. Trademark Registration No. 6,466,478)

(Violation of 15 U.S.C. § 1114)

30. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 29 above.

31. The Defendants’ unauthorized use of the phrase, THE MISFITS COLLECTIVE, as its name and its logo using that phrase with a backwards “F,” has caused and is likely to cause confusion, to cause mistake, or to deceive consumers, and constitutes infringement of Misfit Coffee’s ‘478 Mark.

32. Upon information and belief, the Defendant deliberately and willfully infringed Misfit Coffee’s ‘478 Mark in an attempt to trade off the recognition and goodwill associated with that Mark.

33. The Defendants’ actions are likely to cause irreparable harm to Misfit Coffee unless enjoined.

34. The Defendants’ actions entitle Misfit Coffee to monetary relief under 15 U.S.C. §1117.

35. As a result of the Defendants’ trademark infringement, Misfit Coffee has suffered loss and damages in an amount to be determined at trial. Misfit Coffee is entitled to recover the Defendants’ profits attributed to their infringing activities. Misfit Coffee is entitled to attorneys’ fees and costs incurred in this action. Misfit Coffee is also entitled to permanent injunctive relief, enjoining the Defendant from further and continuing violations of 15 U.S.C. § 1114.

**COUNT III
(Federal Unfair Competition)
(Violation of 15 U.S.C. § 1125(a))**

36. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 35 above.

37. The Defendants’ unauthorized use of the THE MISFITS COLLECTIVE, including when used with a backwards “F,” on and in connection with its coffee shop and restaurant is likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection or association of the Defendant with Misfit Coffee, or as to the origin of the Defendants’ goods, or as to the sponsorship or approval of Defendants’ goods and/or commercial activities by Misfit Coffee, all in violation of 15 U.S.C. § 1125(a).

38. Upon information and belief, the Defendants’ unlawful actions were deliberate and willful.

39. The Defendants’ actions are likely to cause irreparable harm to Misfit Coffee unless enjoined.

40. As a result of the Defendants’ actions, Misfit Coffee has suffered loss and damage in an amount to be determined at trial. Misfit Coffee is entitled to recover the Defendants’ profits attributed to Defendants’ unlawful activities. Misfit Coffee is entitled to attorneys’ fees and costs incurred in this action. Misfit Coffee is further entitled to permanent injunctive relief enjoining the Defendants from further and continuing violations of 15 U.S.C. § 1125(a).

COUNT IV
(Minnesota Unlawful Trade Practices)
(Violation of Minn. Stat. § 325D.13)

41. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 40 above.

42. The Defendants’ use of the phrase THE MISFITS COLLECTIVE, including when used with a backwards “F,” on and in connection with its coffee shop and restaurant misrepresents, directly or indirectly, the origin of Defendants’ coffee, tea, beer, cocktails, and food products, and constitutes unlawful trade practices in violation of Minn. Stat. § 325D.13.

43. Misfit Coffee has been damaged and/or is threatened with loss, damage, or injury by reason of the Defendants’ unlawful trade practices unless enjoined.

44. As a result of the Defendants’ violation of Minn. Stat. § 325D.13, Misfit Coffee has suffered loss and damage in an amount to be determined at trial. Misfit Coffee is entitled to attorneys’ fees and costs incurred in this action. Misfit Coffee is entitled to preliminary and permanent injunctive relief, enjoining the Defendants from further and continuing violations of Minn. Stat. § 325D.13.

COUNT V
(Minnesota Deceptive Trade Practices)
(Violation of Minn. Stat. § 325D.43, *et. seq.*)

45. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 44 above.

46. The ‘477 Mark and ‘478 Mark are each a “Trademark” as defined in Minn. Stat. § 325D.43, subd. 7.

47. The Defendants’ unauthorized use of the phrase THE MISFITS COLLECTIVE, including when used with a backwards “F,” is likely to cause confusion or misunderstanding as to the source of the Defendants’ coffee, tea, beer, cocktails, and food products, or as to the sponsorship or approval of the Defendants’ coffee, tea, beer, cocktails, and food products by Misfit Coffee, or as to the origin of the Defendants’ goods, or as to the sponsorship or approval of Defendants’ goods and/or commercial activities by Misfit Coffee, all in violation of the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44.

48. Upon information and belief, the Defendant acted deliberately and willfully in its unauthorized use of Misfit Coffee’s ‘477 Mark and ‘478 Mark.

49. Misfit Coffee is likely to be damaged by the Defendants’ deceptive trade practices

unless enjoined.

50. As a result of the Defendants’ violation of the Minnesota Deceptive Trade Practices Act, Misfit Coffee has suffered loss and damage in an amount to be determined at trial. Misfit Coffee is entitled to attorneys’ fees and costs incurred in this action. Misfit Coffee is entitled to preliminary and permanent injunctive relief, enjoining the Defendant from further and continuing violations of the Minnesota Deceptive Trade Practices Act.

COUNT VI
(Dilution under Minnesota Law)
(Violation of Minn. Stat. § 333.285)

51. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 50 above.

52. The ‘477 Mark and ‘478 Mark are distinctive and famous in Minnesota.

53. The Defendants’ use of the phrase THE MISFITS COLLECTIVE, including when used with a backwards “F,” on and in connection with sales of its coffee, tea, beer, cocktails, and food products began after the ‘477 Mark and ‘478 Mark became famous in Minnesota.

54. The Defendants’ unauthorized use of the phrase THE MISFITS COLLECTIVE, including when used with a backwards “F,” on and in connection with its coffee, tea, beer, cocktails, and food products is causing dilution of the distinctive quality of the ‘477 Mark and ‘478 Mark.

55. Upon information and belief, the Defendant acted deliberately and willfully in intending to trade on Misfit Coffee’s reputation or to cause dilution of its famous marks.

56. Misfit Coffee is likely to be damaged by the Defendants’ dilution of its famous marks unless enjoined.

57. As a result of the Defendants' violation of Minn. Stat. § 333.285, Misfit Coffee has suffered loss and damage in an amount to be determined at trial. Misfit Coffee is entitled to attorneys' fees and costs incurred in this action. Misfit Coffee is entitled to preliminary and permanent injunctive relief, enjoining the Defendant from further and continuing violations of Minn. Stat. § 333.285.

**COUNT VII
(Common Law Trademark and Trade Dress Infringement)**

58. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 57 above.

59. The Defendants' actions constitute trademark infringement under the common law.

60. As a direct and proximate result of the likelihood of confusion, mistake or deception caused by the Defendants' unlawful actions, Misfit Coffee has suffered and will continue to suffer irreparable harm if the Defendants' unlawful conduct is not enjoined.

61. The Defendants' actions entitle Misfit Coffee to monetary relief in an amount to be determined at trial.

**COUNT VIII
(Common Law Unfair Competition)**

62. Misfit Coffee restates and realleges each of the allegations contained in paragraphs 1 through 61 above.

63. The Defendants' actions constitute unfair competition under the common law.

64. As a direct and proximate result of the Defendant engaging in unfair competition, Misfit Coffee has suffered and will continue to suffer irreparable harm if the Defendants' conduct is not enjoined.

65. The Defendants' actions entitle Misfit Coffee to monetary relief in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Misfit Coffee hereby demands a trial by jury of any issue in this matter triable of right to a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment:

A. On Counts I, II, and III, for an award of the Defendants' profits, any damages sustained by Plaintiff, together with the costs of this action, the precise amounts of all the foregoing to be determined at trial, pursuant to 15 U.S.C. § 1117;

B. That the amount found as actual damages be increased by an amount not exceeding three times, pursuant to 15 U.S.C. § 1117;

C. On Counts III through VIII, for an award of any damages sustained by Plaintiff, the precise amounts of which to be determined at trial;

D. On Counts I through VIII, for permanent injunctive relief enjoining the Defendant, and all persons in active concert with the Defendant, from using the phrase THE MISFITS COLLECTIVE, including but not limited to, when used with a backwards "F," on or in connection with coffee, tea, beer, cocktails, and food products, pursuant to 15 U.S.C. § 1116, the common law, Minn. Stat. § 325D.15, Minn. Stat. § 325.45, and Minn. Stat. § 333.28-29;

E. That the case be deemed exceptional and that Plaintiff be awarded its attorney fees, pursuant to 15 U.S.C. § 1117, Minn. Stat. § 325D.45, and Minn. Stat. § 333.29;

F. An order for destruction of any and all promotional, advertising, or marketing materials in the possession or control of Defendant bearing the '477 Mark, '478 Mark, or the

phrase THE MISFITS COLLECTIVE, including, but not limited to, when used with a backwards “F.”

H. For such other and further relief as the court may deem just and equitable.

Respectfully Submitted,

Date: September 28, 2021

/s/ Christopher A. Young
Christopher A. Young (288998)
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Minneapolis, Minnesota 55437-1060
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cyoung@larkinhoffman.com

ATTORNEYS FOR PLAINTIFF
Misfit Coffee Company LLC

EXHIBIT 12

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Misfit Coffee Company, LLC,

Civil Action No. 21-CV-2130-DWF-JDG

Plaintiff,

v.

**STIPULATION FOR DISMISSAL
WITH PREJUDICE**

Tony Donatell and Lone Oak Store LLC
d/b/a THE MISFITS COLLECTIVE,

Defendants.

The parties, by and through their undersigned counsel, hereby agree and stipulate pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) that this matter may be dismissed with prejudice and on the merits without an award of costs or fees to either party.

Respectfully Submitted,

Date: December 20, 2021

/s/ Christopher A. Young
Christopher A. Young (0288998)
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ATTORNEYS FOR PLAINTIFF
Misfit Coffee Company LLC

Date: December 20, 2021

/s/ Charlie R. Alden

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ATTORNEYS FOR DEFENDANTS

Tony Donatell and Lone Oak Store LLC

4871-3677-6966, v. 2

EXHIBIT 13

SETTLEMENT AGREEMENT


THIS SETTLEMENT AGREEMENT (this “Agreement”) is entered into as of December 14, 2021 (the “Effective Date”) by and among Misfit Coffee Company, LLC, a Minnesota limited liability company, having a principal place of business at 2401 Lyndale Ave. South, Minneapolis, Minnesota (“Misfit”), Tony Donatell, an individual having an address of 1286 Lone Oak Rd, Eagan, MN 55121 (“Donatell”), Lone Oak Store, LLC (“Lone Oak”), and Misfit AV LLC (“Misfit AV”) (Donatell, Lone Oak, and Misfit AV shall collectively be referred to as the “Donatell Entities”) (Misfit and the Donatell Entities shall collectively be referred to as the “Parties,” and each, individually, as a “Party.”

RECITALS

WHEREAS, at least as early as 2015 Misfit has used the distinctive, federally registered MISFIT[®] mark to provide restaurant services;

WHEREAS, in or around early July 2021, Donatell and Misfit AV opened a restaurant featuring a multi-concept food hall style setting that was named The Misfits Collective;

WHEREAS, U.S. Trademark Registration No. 6,466,477 (“the ‘477 Registration”), for the word mark MISFIT[®] for use with coffee shops in international class 43 was registered on August 31, 2021;

WHEREAS, U.S. Trademark Registration No. 6,466,478 (“the ‘478 Registration”), for the word mark MISFIT[®] in stylized form () for use with coffee shops in international class 43 was registered on August 31, 2021;

WHEREAS, U.S. Trademark Application No. 88/870,013 (“the ‘013 Application”), in international classes 30, 32 and 33 was filed on April 13, 2020;

WHEREAS, U.S. Trademark Application No. 88/870,006 (“the ‘006 Application”), for the word mark MISFIT[®] in stylized form () for use with coffee shops in international classes 30, 32 and 33 was filed on April 13, 2021;

WHEREAS, Misfit objected to Donatell and Misfit AV’s use of the MISFIT mark and any name incorporating the mark, in particular as used in The Misfits Collective, contending it would cause consumer confusion with respect to Misfit’s prior use of its MISFIT[®] service marks (the “Dispute”);

WHEREAS, Misfit filed a complaint in United States District Court for the District of Minnesota (“the Complaint” and the “Lawsuit”) including counts for Federal Trademark Infringement of the ‘477 and ‘478 Registrations (collectively, the “Registrations”), violation of 15 U.S.C. § 1114, violation of 15 U.S.C. § 1125(a), violation of Minn. Stat. § 325D.13, violation of Minn. Stat. § 325D.43, *et. seq.*, and violation of Minn. Stat. § 333.285, common law trademark and trade dress infringement, and common law unfair competition;

WHEREAS, the Complaint named Donatell and Lone Oak as defendants, contending that upon information and belief, Lone Oak was the entity responsible for the allegedly infringing use of the MISFIT[®] service marks;

WHEREAS, the Donatell Entities represent and warrant that the legal entity responsible for the allegedly infringing use of the MISFIT[®] service marks was in fact Misfit AV and not Lone Oak;

WHEREAS, given that Lone Oak has been named as a defendant in the Lawsuit, the Donatell Entities wish to settle all claims against Lone Oak and Misfit AV, despite the latter not having been named as a defendant;

WHEREAS, the Parties wish to resolve the Complaint and Lawsuit without having to incur additional attorneys' fees and costs.


NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereby agree as follows:

AGREEMENT

1. Cessation of Use of the Mark. The Donatell Entities, and any other entity for which Donatell is a member, officer, director, agent and/or employee, and any member, shareholder, officer, director, agent, employee and all those acting in concert or participation with any Donatell Entity, shall themselves and cause all other persons or entities under their control to permanently cease, on or before November 1, 2021, all use of:

(a) the mark The Misfits Collective and any mark incorporating the MISFIT[®] mark in connection with any goods or services in international classes 30, 32, 33 and 43 ("the Protected Classes");

(b) any word, term, name, symbol, or device (or any combination thereof) that is identical or confusingly similar to, or a colorable imitation or dilutive of, Misfit's MISFIT[®] mark (as used in the '477 Registration and '013 Application) or MISFIT[®] mark

in stylized form () (as used in the '478 Registration and '006 Application);

(c) the <themisfitcollective.co> domain name in connection with use in any of the Protected Classes; or

(d) any false designation of origin, false or misleading description of fact, or false or misleading representation of fact that is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Donatell Entities, or as to the source or origin of, or sponsorship or approval by, the Donatell Entities' services, goods, or commercial activities.

2. Abandonment of Rights. The Donatell Entities hereby declare their voluntary, intentional, and irrevocable abandonment of any and all rights in and to the mark The Misfits Collective in connection with any use in any of the Protected Classes, and any mark incorporating

the MISFIT[®] mark and any word, term, name, symbol or device (or any combination thereof) that is identical or confusingly similar to, or a colorable imitation or dilutive of, Misfit's


 The logo consists of the word "MISFIT" in a bold, sans-serif font. The letters are arranged in two columns: "MIS" on the left and "FIT" on the right. The letters are black with a white outline.

MISFIT[®] mark or MISFIT[®] mark in stylized form ().

3. Removal of Materials from the Marketplace. The Donatell Entities shall take all necessary steps to remove from public view and access by no later than November 1, 2021 all materials, including all signs, displays, and promotional and packaging materials that use, feature, or bear:

(a) The Misfits Collective mark and any mark incorporating the MISFIT[®] mark in connection with any use in the Protected Classes;

(b) any word, term, name, symbol or device (or any combination thereof) that is identical or confusingly similar to, or a colorable imitation or dilutive of, Misfit's


 The logo consists of the word "MISFIT" in a bold, sans-serif font. The letters are arranged in two columns: "MIS" on the left and "FIT" on the right. The letters are black with a white outline.

MISFIT[®] mark or MISFIT[®] mark in stylized form (); or

(c) any false designation of origin, false or misleading description of fact, or false or misleading representation of fact that is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Donatell Entities with Misfit, or as to the source or origin of, or sponsorship or approval by Donatell Entities' services, goods, or commercial activities.

4. Future Trademark Applications. The Donatell Entities shall not apply for, prosecute, maintain, or enforce, or seek to have any third party apply for, prosecute, maintain or enforce for the Donatell Entities benefit, any registration for the MISFIT mark, any mark incorporating the MISFIT mark, or any mark that is identical or confusingly similar to, or a colorable imitation or dilutive of, Misfit's MISFIT[®] mark or MISFIT[®] mark in stylized form


 The logo consists of the word "MISFIT" in a bold, sans-serif font. The letters are arranged in two columns: "MIS" on the left and "FIT" on the right. The letters are black with a white outline.

() on any federal or state trademark registry.

5. Acknowledgement of Ownership and No Challenge. The Donatell Entities acknowledge that Misfit is the owner of all right, title and interest in and to Misfit's MISFIT[®]



 The logo consists of the word "MISFIT" in a bold, sans-serif font. The letters are arranged in two columns: "MIS" on the left and "FIT" on the right. The letters are black with a white outline.

mark and MISFIT[®] mark in stylized form () and the Registrations and Applications. The Donatell Entities acknowledge that Misfit's MISFIT[®] mark and MISFIT[®] mark in stylized


 The logo consists of the word "MISFIT" in a bold, sans-serif font. The letters are arranged in two columns: "MIS" on the left and "FIT" on the right. The letters are black with a white outline.

form () are valid and that the Registrations and Applications are valid and subsisting. The Donatell Entities shall not at any time or for any reason challenge either the validity of



Misfit's MISFIT[®] mark or MISFIT[®] mark in stylized form () or Registrations or Applications or Misfit's ownership thereof.

6. Mutual Release. Provided that the Parties are in full compliance with their respective obligations in this Agreement, the Parties, on behalf of themselves, their predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns, and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns, and successors in interest, and all persons acting by, through, under, or in concert with them, and each of them, hereby release and discharge the other Party, together with their predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns and successors in interest, and all persons acting by, through, under, or in concert with them, and each of them, from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties, fees, expenses (including attorneys' fees and costs actually incurred), and punitive damages, of any nature whatsoever, known or unknown, which either Party has, or may have had, against the other Party, whether or not apparent or yet to be discovered, or which may hereafter develop, for any acts or omissions related to or arising from the Dispute. Notwithstanding the foregoing, nothing in this Agreement shall be construed as, or constitute, a release of any Party's rights to enforce the terms of this Agreement.

7. Non-Disparagement. The Parties agree that, unless required to do so by legal process, they and their officers and directors will not make any disparaging statements or representations, either directly or indirectly, whether orally or in writing, by word or gesture, to any person whatsoever, about the other Party or its attorneys, representatives, affiliates, directors, officers, employees or agents. For purposes of this paragraph a disparaging statement or representation is any communication which, if publicized to another, would cause or tend to cause the recipient of the communication to question the business condition, integrity, competence, good character, or product quality of the person or entity to whom the communication relates.

8. Agreement is Legally Binding. The Parties intend this Agreement to be legally binding upon and shall inure to the benefit of each of them and their respective successors, assigns, executors, administrators, heirs and estates.

9. Entire Agreement. The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof. Furthermore, no modification of this Agreement shall be binding unless in writing and signed by each of the Parties.

10. Interpretation. Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. The headings within this Agreement are purely for convenience and are not to be used as an aid in interpretation. Moreover, this Agreement shall not be construed against either Party as the author or drafter of the Agreement.

11. Governing Law and Submission to Jurisdiction.

(a) This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Minnesota, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Minnesota.

(b) Any action, suit or other proceeding arising out of or related to this Agreement shall be instituted exclusively in the federal courts of the United States or the courts of the State of Minnesota in each case located in the city of Minneapolis and County of Hennepin, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any action, suit or other proceeding brought in any such court.

12. Notices. All notices, demands or other communications required or permitted to be given under this Agreement by either Party to the other may be effected either by personal delivery in writing, or by Federal Express or similar courier, postage prepaid with return receipt requested. Mailed notices shall be addressed to the other Party at the address appearing in the introductory paragraph of this Agreement, which the Parties represent are true and accurate as of the Effective Date, and that each Party will provide notice to the other Parties pursuant to this Section within ten business days of changing its address. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of five days after mailing.

13. Equitable Relief. The Donatell Entities acknowledge that a breach or threatened breach by the Donatell Entities of any of their obligations under this Agreement would give rise to irreparable harm to Misfit for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by the Donatell Entities of any such obligations, Misfit shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

14. Attorneys' Fees. In the event that any Party institutes any legal suit, action or proceeding against the other Party arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive in addition to all other damages to which it may be entitled, the costs incurred by such party in investigating the claim,

conducting the suit, action or proceeding, including actual attorneys' fees and expenses and court costs, through all appeals.

15. Reliance on Own Counsel. In entering into this Agreement, the Parties acknowledge that they have relied upon the legal advice of their respective attorneys, who are the attorneys of their own choosing, that such terms are fully understood and voluntarily accepted by them, and that, other than the consideration set forth herein, no promises or representations of any kind have been made to them by the other Party. The Parties represent and acknowledge that in executing this Agreement they did not rely, and have not relied, upon any representation or statement, whether oral or written, made by the other Party or by that other Party's agents, representatives or attorneys with regard to the subject matter, basis or effect of this Agreement or otherwise.

16. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, and such counterparts will together constitute one and the same instrument. The Parties agree that this Agreement may be signed electronically pursuant to the ESIGN Act, and agree that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

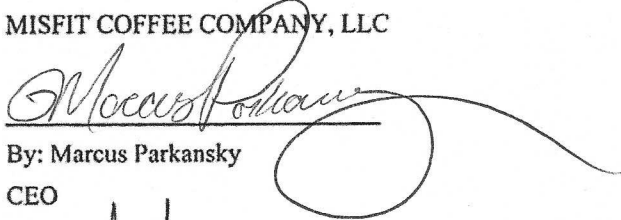
17. Authority to Execute Agreement. By signing below, each Party warrants and represents that the person signing this Agreement on its behalf has authority to bind that Party and that the Party's execution of this Agreement is not in violation of any By-law, Covenant and/or other restrictions placed upon them by their respective entities.

{Signature Page Follows}

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

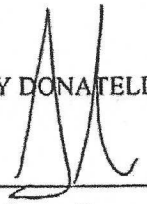
Date: 12/20/2021

MISFIT COFFEE COMPANY, LLC


By: Marcus Parkansky
CEO

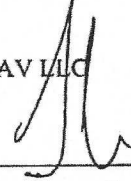
Date: 12/14/2021

TONY DONATELL


Tony Donatell

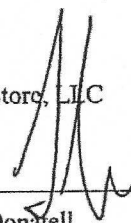
Date: 12/14/2021

Misfit AV LLC


By: Tony Donatell
Manager

Date: 12/14/2021

Lone Oak Store, LLC


By: Tony Donatell
Manager

4859-3907-0214, V. 1
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